United Nations CRC/C/OPSC/VUT/CO/1

Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the report submitted by Vanuatu under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

I. Introduction

1. The Committee considered the report of Vanuatu (CRC/C/OPSC/VUT/1) at its 2230th and 2240th meetings (see CRC/C/SR.2230 and 2240), held on 21 and 22 September 2017, and adopted the present concluding observations at its 2251st meeting, held on 29 September 2017.

2. The Committee welcomes the submission of the report of the State party and the written replies to the list of issues (CRC/C/OPSC/VUT/Q/1/Add.1). The Committee also welcomes the constructive dialogue with the multisectoral delegation of the State party, which was successfully held through videoconferencing, a method that was suitable owing to the limited resources of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the combined second to fourth periodic reports submitted by the State party under the Convention (CRC/C/VUT/CO/2-4), adopted on 29 September 2017, and on the report of the State party submitted under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/VUT/CO/1), also adopted on 29 September 2017.

II. General observations

Positive aspects

4. The Committee welcomes the measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including the adoption of:

(a) The Family Protection Act 2008;

(b) The establishment of the Family Protection Unit under the Police Department and of the Family Protection Task Forces in the six provinces.

* Adopted by the Committee at its seventy-sixth session (11-29 September 2017).

III. Data

Data collection

5. The Committee notes with concern that there is no mechanism for data collection, analysis and monitoring for all areas covered by the Optional Protocol.

6. **The Committee recommends that the State party extend the monitoring and data collection activities of the Monitoring and Evaluation Unit within the Office of the Prime Minister to all areas of the Optional Protocol, including child prostitution, child pornography and sexual exploitation of children in the context of travel and tourism. The data should be disaggregated by, inter alia, sex, age, nationality and ethnic origin, region and socioeconomic status, with particular focus on children who are at risk of becoming victims of crimes under the Optional Protocol.**

IV. General measures of implementation

A. Legislation

7. The Committee is concerned that the legislation of the State party does not define or criminalize all the forms of sale of children listed in articles 2 and 3 of the Optional Protocol, which constitute an offence that is similar but not identical to trafficking in persons.

8. **The Committee recommends that the State party ensure that all acts and activities referred to in the Optional Protocol are fully covered under its criminal law, including all forms of sale of children.**

B. Comprehensive policy and strategy

9. The Committee is concerned about the absence of a national plan of action on children that specifically includes and addresses the elimination of the sale of children, child prostitution and child pornography.

10. **The Committee recommends that the State party develop a national plan of action aimed at addressing specifically all the issues covered under the Optional Protocol, and provide adequate human and financial resources for its implementation. In doing so, the State party should pay particular attention to the implementation of all the provisions of the Optional Protocol, taking into account the outcomes of the World Congresses against Commercial Sexual Exploitation of Children.**

C. Coordination and evaluation

11. The Committee notes that the Ministry of Justice and Community Services is primarily responsible for the implementation of the Optional Protocol, and that the National Children's Committee has been specifically tasked with coordinating the implementation of the Optional Protocol. The Committee is, however, concerned that the Ministry and the National Children's Committee, which has not been functional since 2012, do not have the capacity and resources to effectively execute their responsibilities to coordinate and implement the protection of children under the Optional Protocol.

12. **With reference to paragraphs 10 and 11 of its concluding observations under the Convention, the Committee recommends that the State party ensure that adequate financial and human resources are allocated to the Ministry of Justice and Community Services and the National Children's Committee for the implementation of the Optional Protocol and coordination of the activities on child rights under the Optional Protocol.**

D. Dissemination and awareness-raising

13. The Committee is concerned that the Optional Protocol has not been disseminated and that there have been no public awareness-raising campaigns and activities since its ratification.

14. **The Committee recommends that the State party disseminate widely the principles and provisions of the Optional Protocol, as provided for in the National Child Protection Policy 2016-2026, and launch public awareness-raising campaigns and capacity-building programmes for all relevant professional groups and the general public, targeting children in particular.**

E. Training

15. The Committee is concerned that the State party has not implemented any training on the provisions of the Optional Protocol for relevant professionals, including immigration and law enforcement officers, judges, social workers, teachers and legislators.

16. **The Committee recommends that the State party develop training programmes on the provisions of the Optional Protocol for relevant professionals, including immigration and law enforcement officers, judges, social workers, teachers and legislators.**

F. Allocation of resources

17. The Committee is concerned about the lack of specific budget allocations for the implementation of the Optional Protocol.

18. **The Committee recommends that the State party ensure that sufficient and targeted resources are allocated to the Child Desk under the Ministry of Justice and Community Services for the effective implementation of all areas of the Optional Protocol.**

V. Prevention of the sale of children, child prostitution and child pornography ((art. 9 (1) and (2))

A. Measures adopted to prevent offences prohibited under the Optional Protocol

19. The Committee is concerned that:

(a) There are no administrative or legal measures, social programmes or policies in the area of health and education to protect children from offences under the Optional Protocol;

(b) There are limited possibilities for birth registration, particularly for children who are not born in hospital;

(c) The harmful customary practice of exchanging children between the tribes for the purpose of keeping peace in the community has still not been criminalized, despite recent court decisions;

(d) There is no referral and follow-up system within the existing child protection system for identifying children who are at risk of becoming victims of the offences under the Optional Protocol;

(e) There is only limited information available on the efforts to protect children in vulnerable situations, including asylum-seeking and refugee children, unaccompanied migrant and undocumented children.

20. **The Committee recommends that the State party strengthen its preventive measures to cover all areas of the Optional Protocol and in particular that it:**

(a) **Adopt administrative and legal measures, social programmes and policies in the area of health and education to protect children from offences under the Optional Protocol;**

(b) **With reference to paragraph 24 of its concluding observations under the Convention, expedite the expansion of birth registration in health facilities, the use of mobile registration structures, and the creation of registration at the community level to ensure that birth registration is available to all;**

(c) **Expedite legislation criminalizing the exchanging of children between tribes;**

(d) **Establish the referral and follow-up procedures provided for under the Family Protection Act, such as those relating to the posts of Registered Counsellor and Authorized Person, as well as specialized mechanisms and procedures for the identification of children at risk of becoming victims of the offences covered by the Optional Protocol, particularly among children in vulnerable situations, and strengthen prevention programmes and the protection of potential victims, particularly girls;**

(e) **Strengthen its efforts to ensure that prevention efforts also target children in vulnerable situations, including asylum-seeking and refugee children, unaccompanied migrant and undocumented children.**

B. Measures to prevent and tackle online child sexual exploitation and abuse

21. The Committee is concerned that there is currently no policy to prevent online child sexual exploitation and abuse. The Committee is also concerned at reports of the dissemination of child sexual exploitation material through the use of mobile telephones.

22. **With reference to Human Rights Council resolution 31/7 on the rights of the child with regard to information and communications technologies and child sexual exploitation, and to the outcomes of the 2014 London summit and the 2015 Abu Dhabi summit of the We Protect Global Alliance to End Child Sexual Exploitation Online, the Committee recommends that the State party:**

(a) **Adopt the draft cybercrime policy on preventing and addressing online child sexual exploitation and abuse proposed by the Telecommunication and Radio Communications Regulator;**

(b) **Launch a public awareness-raising education programme and introduce mandatory school education on online behaviour and safety, reporting of online child sexual exploitation and abuse offences, including over mobile telephones, and ensure that children participate in the development of policies and practices in that regard.**

VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3, 4 (2) and (3) and 5-7)

A. Existing criminal or penal laws and regulations

23. While noting the ongoing review of the Penal Code in relation to sexual offences, the Committee is concerned that criminal law in the State party does not define and criminalize all forms of offences covered by the Optional Protocol and does not adequately protect all children under the age of 18. In particular, the Committee is concerned that:

(a) There are no provisions under the Penal Code that punish all the acts enumerated and defined as sale of children under the Optional Protocol;

(b) Exploitation of children for prostitution exists on a transactional basis, despite being criminalized under the Penal Code.

24. **The Committee recommends that the State party continue to revise and bring its Penal Code and other relevant legislation into full compliance with articles 2 and 3 of the Optional Protocol. In particular, the State party should:**

(a) **Clearly stipulate that a child under 18 years of age, irrespective of the legal age of consent to sexual activity, is unable to consent to any form of sexual exploitation, including child pornography and child prostitution;**

(b) **Define and criminalize all forms of sale of children, in conformity with articles 2 and 3 of the Optional Protocol;**

(c) **Adopt additional legislative, administrative and practical measures to eliminate the exploitation of children for prostitution.**

B. Impunity

25. The Committee is concerned about the lack of information regarding the number of investigations, prosecutions and convictions of perpetrators there have been for offences under the Optional Protocol.

26. **The Committee recommends that the State party take all measures necessary to ensure that all cases of sale of children, child prostitution and child pornography are adequately documented and investigated effectively and that the perpetrators are prosecuted and punished with sanctions that are commensurate with the gravity of their crimes.**

C. Liability of legal persons

27. The Committee is concerned that there is no criminal liability for legal persons under the State party's legislation for the offences of sale of children and child prostitution.

28. **The Committee recommends that the State party establish the criminal liability of legal persons for all offences defined in articles 2 and 3 of the Optional Protocol.**

D. Extraterritorial jurisdiction

29. The Committee notes that the State party's legislation provides for extraterritorial jurisdiction, but is concerned about the lack of information on whether the legislation includes all offences covered by the Optional Protocol.

30. **The Committee recommends that the State party establish extraterritorial jurisdiction over all acts prohibited under the Optional Protocol, including those that are not fully criminalized under the Penal Code, such as the sale of children.**

E. Extradition

31. The Committee is concerned about the absence of legislation on extradition concerning all offences covered by the Optional Protocol.

32. **The Committee recommends that the State party take all measures necessary to include offences under the Optional Protocol in all future extradition treaties and consider using the Optional Protocol as a basis for extradition in the absence of any extradition treaty.**

VII. Protection of the rights of child victims (arts. 8 and 9 (3) and (4))

A. Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

33. The Committee is concerned that:

(a) The system in place for identifying victims of child pornography, child prostitution and the sale of children, including trafficking, is inadequate and inefficient;

(b) The Penal Code does not contain any provisions concerning criminal proceedings and special protection measures for children;

(c) No measures have been taken to ensure legal, psychological or other training for those who work with victims of the offences under the Optional Protocol;

(d) Child victims of offences under the Optional Protocol are not de facto capable of seeking compensation for acts committed against them owing to limited support, despite the de jure existence of provisions for such compensation.

34. **In the light of article 9 (3) of the Optional Protocol, the Committee recommends that the State party:**

(a) **Establish mechanisms and procedures for the early identification of child victims of offences under the Optional Protocol and ensure that those responsible for their identification, including law enforcement officers, border and immigration authorities, judges, prosecutors, social workers and medical staff, are trained in children's rights, child protection and child-friendly interviewing skills;**

(b) **Consider revising the Penal Code and including in it provisions concerning criminal proceedings and special protection measures for children;**

(c) **Seek bilateral, multilateral, regional and international assistance in implementing these recommendations.**

B. Recovery and reintegration of victims

35. The Committee is concerned that there are no existing pubiic programmes that provide child victims of sale, prostitution and pornography with assistance in social reintegration and physical and psychological recovery.

36. **The Committee recommends that the State party take all measures necessary to ensure that child victims of offences covered by the Optional Protocol are provided with appropriate assistance, including for their physical, psychological and full social reintegration.**

VIII. International assistance and cooperation (art. 10)

Multilateral, bilateral and regional agreements

37. **In the light of article 10 (1) of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, including by strengthening procedures and mechanisms for coordinating the implementation of such arrangements, with a view to improving prevention, detection, investigation, prosecution and punishment of those responsible for any of the offences covered under the Optional Protocol.**

IX. Implementation and reporting

A. Follow-up and dissemination

38. **The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented, including by transmitting them to the relevant government ministries, Parliament and national and local authorities for appropriate consideration and further action.**

39. **The Committee recommends that the report and the written replies to the list of issues submitted by the State party and the present concluding observations be made widely available, including through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate on and awareness of the Optional Protocol and its implementation and monitoring.**

B. Next periodic report

40. **In accordance with article 12 (2) of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report to be submitted in accordance with article 44 of the Convention.**